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AUTHOR Lindstrom, Duane
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ABSTRACT

The primary objective of the Housing and Community Development Act of 1974 is the development of viable urban communities, including decent housing, a suitable living environment, and expanding economic opportunities. This report focuses on the attempts of Livonia, Michigan, to obtain funds under the act. Examined are the areas of citizen participation, assistance for eligible persons, and civil rights compliance. It is stated that in all three areas, Livonia's application for funds under the 1974 act and the process leading to its development have been deficient. One particular problem is said to have been the city's failure to affirmatively address the housing needs of non-resident workers who may wish to reside in Livonia. It is recommended that the Federal Government amend selected procedures for application for funding, and that the Livonia city government also modify parts of its application for funding in order to increase compliance with affirmative action and other civil rights legislation. Appended to the report are descriptions of several civil rights laws affecting the Housing and Community Development Act of 1974. (Author/GC)

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CIVIL RIGHTS AND THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

VOLUME I: LIVONIA

--A report of the Michigan Advisory Committee to the United States Commission on Civil Rights prepared for the information and consideration of the Commission. This report will be considered by the Commission, and the Commission will make public its reaction. In the meantime, the findings and recommendations of this report should not be attributed to the Commission but only to the Michigan Advisory Committee.

June 1975

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CIVIL RIGHTS AND THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

VOLUME I: LIVONIA

--A report prepared by the Michigan Advisory Committee to the U.S. Commission on Civil Rights

ATTRIBUTION:

The findings and recommendations contained in this report are those of the Michigan Advisory Committee to the United States Commission on Civil Rights and, as such, are not attributable to the Commission.

This report has been prepared by the State Advisory Committee for submission to the Commission, and will be considered by the Commission in formulating its recommendations to the President and Congress.

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Prior to the publication of a report, the State Advisory Committee affords to all individuals or organizations that may be defamed, degraded, or incriminated by any material contained in the report an opportunity to respond in writing to such material. All responses have been incorporated, appended, or otherwise reflected in the publication.

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LETTER OF TRANSMITTAL

MICHIGAN ADVISORY COMMITTEE
TO THE U.S. COMMISSION ON
CIVIL RIGHTS - JUNE 1975

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John A. Buggs, Staff Director

Sirs and Madam:

The Michigan Advisory Committee submits this report, the first on a continuing study of the civil rights aspects of the Housing and Community Development Act of 1974, as part of its responsibility to advise the Commission about civil rights problems within this State.

This report is interim in nature, focusing on the attempts of one community, suburban Livonia, to obtain funds under the new act, an omnibus community development law designed to consolidate previous categorical programs and to delegate to local governments more control over the use of such Federal funds.

The Advisory Committee has found that in each of three areas: 1) citizen participation, 2) assistance for eligible persons, and 3) civil rights compliance, Livonia's application under the 1974 act and the process leading to its development have been deficient. In particular, the city has not affirmatively dealt with the housing needs of non-resident workers who may wish to reside in Livonia.

A new aspect of Federal community development legislation present in the 1974 act and particularly relevant to cities such as Livonia is the requirement that, in addition to considering the housing needs of present residents, communities seeking such funds must also consider the needs of "persons planning or expected to reside" there "as a result of planned or existing employment facilities." (39 Fed. Reg. 40144 (1974)).

The Advisory Committee has also found that the Department of Housing and Urban Development has so far failed to specify that local communities must involve non-residents who might be "expected to reside" there in the decisionmaking process. In addition, HUD officials have issued internal instructions to hold the civil rights review of incoming community development applications to a minimum. We have further found that, even in the absence of such instructions, HUD would lack the necessary staff capacity at this time to adequately review and monitor grant programs under the 1974 act for civil rights compliance.

Based on these findings, this Advisory Committee has directed recommendations to appropriate local, State, and Federal officials. It is the Advisory Committee's hope that the Commission will support these recommendations with specific actions. The Advisory Committee is now examining the impact of the 1974 act in inner city areas in Michigan and will also examine rural settings in this regard. Further reports and recommendations will be forthcoming.

Respectfully,

/s/

Jo-Ann Terry
Chairperson

ACKNOWLEDGMENTS

Volume I of CIVIL RIGHTS AND THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 was written by Duane Lindstrom, research writer. The Michigan Advisory Committee's community development project, of which this report is the first of several to be issued, is under the immediate staff direction of Frank E. Steiner, equal opportunity specialist. Assistance in the research and preparation of the report was provided by Margaret V. Johnson, regional attorney; Delores Miller, administrative assistant; and Ada L. Williams and Sharon A. Rivers, support staff. The report was prepared under the supervision of Clark G. Roberts, regional director, Midwestern Regional Office.

Final edit and review was conducted in the Commission's Office of Field Operations, Washington, D.C., by editor Laura Chin, assisted by Mary Frances Newman. Preparation of all State Advisory Committee reports is supervised by Isaiah T. Creswell, Jr., Assistant Staff Director for Field Operations.

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights, created by the Civil Rights Act of 1957, is an independent, bipartisan agency of the executive branch of the Federal Government. By the terms of the Act, as amended, the Commission is charged with the following duties pertaining to denials of the equal protection of the laws based on race, color, sex, religion, or national origin: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to denials of equal protection of the law; maintenance of a national clearinghouse for information respecting denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

THE STATE ADVISORY COMMITTEES

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 as amended. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

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I. INTRODUCTION

The Housing and Community Development Act of 1974, a Federal plan to distribute $8 billion in housing and community improvement funds among towns, cities, and urban counties, could significantly alter the racial and economic housing patterns of the nation.[1]

The primary objective of the Housing and Community Development Act, signed into law August 22, 1974, is the "development of viable urban communities, including decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income."[2]

Unlike previous Federal legislation which created a variety of programs to provide funds for specified uses such as water and sewer lines, open space and urban beautification, historic preservation, urban renewal, and model cities, the Housing and Community Development Act provides money in a "block grant" to the local government. The decision as to how the money is spent is no longer to be made by the Federal government but rather by the local officials receiving the funds.

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1. *Pub. L. No. 93-383 §103(a)(1) (Aug. 22, 1974).*

2. *39 Fed. Reg. 40137 (1974).*

The act, according to President Gerald R. Ford, marks "a complete and welcome reversal in the way that America tries to solve the problems of our urban communities. Decisions will be made at the local level. And responsibility for results will be placed squarely where it belongs--at the local level...."[3]

The Housing and Community Development Act outlines specific responsibilities including: 1) requirements to provide citizens with an "adequate opportunity to participate in the development of the application," 2) conformity with all applicable civil rights laws, and 3) compliance with legislative requirements to give "maximum feasible priority to activities which benefit low and moderate income families."[4]

The Michigan Advisory Committee to the U.S. Commission on Civil Rights, under the legislative mandate to appraise the "laws and policies of the United States with respect to denials of equal protection of the law," has undertaken a study of the racial and economic effects of the Housing and Community Development Act, its implementation in the State of Michigan, and the effectiveness of those provisions of the law requiring civil rights compliance, citizen participation, and priority expenditures for low and moderate income families.

On February 20, 1974, the Advisory Committee held an informal hearing in Livonia, Mich., as a part of its study. Livonia was chosen because of its nearly all-white, middle-income population, the large number of blacks who work in the city but live elsewhere, and the city's suburban setting within the Detroit metropolitan area. Additional communities, representative of urban and rural areas, will be included in future inquiries.

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3. *10 Presidential Documents 1050 (1974).*

4. *39 Fed. Reg. 40144, 40145 (1974).*

This report of the findings and recommendations drawn from the Livonia study is interim in nature. It reflects the conclusions reached after conducting more than 30 personal interviews with local residents, city officials, and Federal representatives; a 1-day informal hearing in Livonia which included 22 witnesses representing local, State, and Federal officials as well as residents and private organizations concerned with urban development; and a 3-month study of the act and related materials by Advisory Committee members and Commission staff.

This report, an analysis of the application and funding process during the first year under the act, is being published to assist the U.S. Department of Housing and Urban Development (HUD) in the development of second and third year program guidelines, to point out the urgency of the civil rights issues involved, and to aid cities in future applications to achieve the purpose and expectations of the law.

II. CITIZEN PARTICIPATION

The Housing and Community Development Act of 1974 requires the local government to certify that prior to submission of its application it has:

1) Provided citizens with adequate information concerning the amount of funds available for proposed community development and housing activities, the range of activities that may be undertaken, and other important program requirements;

2) Held at least two public hearings to obtain the views of citizens on community development and housing needs; and

3) Provided citizens an adequate opportunity to participate in the development of the application and in the development of any revisions, changes, or amendments.[5]

To comply with the performance standards of the act, a city must develop a process "which permits citizens likely to be affected by community development and housing activities, including low and moderate income persons, to articulate needs, express preferences about proposed activities, assist in the election of priorities, and otherwise participate in the development of the application...."[6]

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5. *39 Fed. Reg. 40144 (1974).*

6. *39 Fed. Reg. 40150 (1974).*

In Livonia, city officials held five public meetings to discuss the act. (Transcript, p. 83)[7] The meetings were attended by approximately 95 of the city's 110,000 residents. (Transcript, p. 133)

The city also formed a community development citizens' advisory committee to assist in the identification of needs, the development of a first year program, the development of a list of needs for future program years, and to monitor the city's funds to see that they are used in compliance with the approved program. Members were selected on a first come, first chosen basis from a list of Livonia residents who volunteered to serve on the committee. All 14 residents who indicated an interest in the committee were selected to serve. (Transcript, pp. 98, 112, 113)

The Livonia advisory committee includes members from various economic backgrounds, various age groups except the very young, and residents living in the areas to be affected by the city's development plan; approximately one-third of the members are women. (Transcript, p. 170) The committee does not include any individuals "planning or expected to reside" in Livonia.

Under provisions of the Housing and Community Development Act, each applicant for funds is to calculate the housing needs of two classifications of citizens: those "already residing in the community," and those "planning or expected to reside in the community as a result of planned or existing employment facilities."[8] The act requires that "a local process be developed which permits

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7. Page numbers in parentheses cited here and hereafter in text refer to statements made to the Michigan Advisory Committee at its open meeting in Livonia, Mich., Feb. 20, 1975, as recorded in the transcript of that meeting. The transcript is on file with the U.S. Commission on Civil Rights, Washington, D.C., and with the Commission's Midwestern Regional Office, Chicago, Ill.

8. 39 Fed. Reg. 40144 (1974).

citizens likely to be affected by community development and housing activities...to articulate needs, express preferences about proposed activities, assist in the selection of priorities, and otherwise participate in the development of the application...."[9]

Census data from 1970 indicate that more than 19,000 citizens with incomes eligible for housing assistance (low or moderate) work in the "existing employment facilities" of Livonia but do not live in the city.[10] These individuals potentially fall within the scope of the Housing and Community Development Act's classification of those expected to reside. (Transcript, p. 318) According to the U.S. Equal Employment Opportunity Commission (EEOC), 4,353 of Livonia's non-resident workers in 1972, eligible for housing assistance, were black.[11] Women comprised approximately 30 percent of the non-resident work force.[12]

However, there is no evidence that any of the more than 19,000 non-resident members of the work force were included in the "citizen participation" activities of the city or that any of the more than 4,000 eligible black workers were contacted by the city for input into Livonia's housing and community development plan.

In addition to public meetings and the establishment of a citizens' advisory committee, Livonia officials sought additional information on housing needs through a questionnaire distributed at the public meetings and published in the local newspaper. A total of

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9. 39 Fed. Reg. 40150 (1974).

10. U.S., Department of Commerce, Bureau of the Census, 1970 Census of Population, PC(2)-6D, Journey to Work, Table 2 (hereafter cited as Journey).

11. Michigan Department of Civil Rights, Minority Workers in Selected Detroit Area Cities (Prepared from 1972 Equal Employment Opportunity Commission Reports for Michigan), Feb. 3, 1975.

12. Journey, Table 2.

229 questionnaires were returned and tabulated by the city. (Transcript, p. 105)

The questionnaire was distributed primarily to Livonia citizens. Although citizens in the "expected to reside" category could have obtained it by chance in the local newspaper, the city took no affirmative steps to get responses from non-residents planning or expected to reside in Livonia.

The Department of Housing and Urban Development has not given applicants a definition of the "expected to reside" category. Instead, HUD has maintained that the classification is self-explanatory. (Transcript, pp. 359, 360) HUD has not insisted that those persons "expected to reside" be included in the citizen participation activities of the applicant. Therefore, according to HUD officials, few applicants have included representation from the "expected to reside" in their planning process. (Transcript, pp. 383, 384)

Conclusions:

1) Livonia has made a good-faith effort to provide citizen participation for residents of the city but has not provided a means of participation for those individuals "planning or expected to reside in the community." The Michigan Advisory Committee to the U.S. Commission on Civil Rights concludes that the Housing and Community Development Act of 1974 includes the "expected to reside" within the act's coverage and that all likely beneficiaries of the program are to be included in the citizen participation requirements of the act. Therefore, persons "expected to reside" are a necessary component of the citizen participation process.

2) The failure of HUD to define clearly the "expected to reside" classification and to compel applicants to include such individuals in citizen participation activities has resulted in the

exclusion of such citizens from the benefits of the Housing and Community Development Act in Livonia and in other cities in similar circumstances.

3) The Livonia community development citizens' advisory committee has provided a means for its members to participate in development of the housing and community development plan. The "first come, first chosen" process of selecting participants, however, does not insure that the characteristics of the total population of the community will be represented on the committee.

Recommendations:

1) The Michigan Advisory Committee to the U.S. Commission on Civil Rights recommends that the Livonia city council amend its procedures for citizen participation in developing future housing and community development applications by:

a) actively seeking out income eligible members of the Livonia work force to participate in the citizens' advisory committee;

b) providing additional public hearings and affirmatively seeking the participation of persons "expected to reside." This affirmative action by the city could include distribution of information and invitations through the various employment facilities in the city, the unions representing the work force, and through information placed in newspapers with primary circulations outside of Livonia's city limits but within the area from which the work force is drawn.

2) The Michigan Advisory Committee recommends that the Secretary of the Department of Housing and Urban Development issue a memorandum of

clarification to all regional and area HUD offices and to the Housing and Community Development applicants defining the classification "expected to reside" and indicating that cities which document the housing needs of those individuals "planning or expected to reside" must also provide for their inclusion in the applicant's citizen participation activities.

3) The Michigan Advisory Committee recommends that the Livonia city council amend its selection process for the community development citizens' advisory committee, as it pertains to present Livonia residents, to insure that the makeup of the committee is representative of the population of those "likely to be affected" by housing and community development activities.

III. PROVIDING FOR THE ELIGIBLE

The Housing and Community Development Act of 1974 requires that the funds available under the act be used "principally for persons of low and moderate income" in an attempt to provide them "decent housing and a suitable living environment...."[13]

The act requires an areawide or regional approach to the housing needs of the nation, requiring that funding applications be "developed in accordance with areawide development planning and national urban growth policies." Rigid conformity with existing areawide plans is not required but "the applicant must give careful consideration to applicable areawide plans."[14]

The act further encourages an areawide approach to housing needs by requiring cities to measure not only the needs of their own residents but also of those citizens who might be expected to become residents because of employment facilities.[15] Although local governments were designated by

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13. *39 Fed. Reg. 40137 (1974).*

14. *39 Fed. Reg. 40144 (1974).*

15. *39 Fed. Reg. 40144 (1974).*

Congress to receive, plan for, and expend these monies within their own areas, they are required to consider the needs of the total area beyond the city limits and the regional impact of their decisions.

County and regional needs and plans are to be considered as they relate to both local and areawide housing and job markets for low and moderate income citizens.

Once the housing needs of a community are determined, the Housing and Community Development Act provides funds to meet those needs under two separate programs. The Housing Assistance Payment Program, known as "section 8," provides rent subsidies to eligible families for the difference between the rent charged and the amount the recipient is able to pay. The Community Development Program provides funds for neighborhood improvements essential to a livable environment and decent housing. Such improvements include demolition of blighted housing, development of water and sewer systems, and city beautification programs.

In order to receive funds, the applicant is required to submit a 3-year "community development plan summary," a detailed, first year "community development program," and a "housing assistance plan" which describes the housing needs of the community, the plan to provide for those needs, and the annual goals for fulfilling the plan.16

Funding applications are reviewed by the Department of Housing and Urban Development and are approved unless:

1) "On the basis of significant facts and data, generally available...and pertaining to community and housing needs and objectives,

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16. 39 Fed. Reg. 40144 (1974).

the [HUD] Secretary determines that the applicant's description of such needs and objectives is plainly inconsistent with such facts or data," or

2) "On the basis of the application, the Secretary determines that the activities to be undertaken are plainly inappropriate to meeting the needs and objectives identified by the applicant," or

3) "The Secretary determines that the application does not comply with the requirements of this part or other applicable Federal laws, or proposes activities which are ineligible under this part."[17]

Livonia's application for funding under the Housing and Community Development Act identified the needs of 252 "elderly/handicapped" households, 470 "non-elderly/handicapped" households, and 41 households "expected to reside." (See Exhibit I)

The first year goals of the "housing assistance plan" provide for meeting the needs of 150 "elderly" households. The first year program for the "community development plan" provides for rehabilitation assistance to 18 additional "elderly" households, 29 "non-elderly, large family" households, and 9 "non-elderly" households. (See Exhibit II)

Under HUD review guidelines, Livonia's application must not be based on information inconsistent with generally available facts and data. Population information provided by HUD indicates that among the city's residents are 246 eligible "elderly" households and 498 eligible "non-elderly"

17. *39. Fed. Reg. 40145 (1974).*

EXHIBIT I

HOUSING ASSISTANCE NEEDS OF LOWER INCOME HOUSEHOLDS SUBMITTED BY LIVONIA IN ITS HOUSING AND COMMUNITY DEVELOPMENT APPLICATION

Budget No. 63-R1471

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
HOUSING ASSISTANCE PLAN
TABLE II - HOUSING ASSISTANCE NEEDS OF LOWER INCOME HOUSEHOLDS

1. NAME OF APPLICANT: City of Livonia, Michigan
2. APPLICATION NUMBER:
3. ☒ ORIGINAL ☐ AMENDMENT
4. PROGRAM YEAR From: To:

SOURCES OF HOUSING NEEDS	NUMBERS OF HOUSEHOLDS								
	TOTAL			BLACK*			SPANISH (or other Minority _____)		
	Total	Large Families**	Other	Total	Large Families**	Other	Total	Large Families**	Other
A. CURRENTLY REQUIRING ASSISTANCE (excl. displaced)									
1. TOTAL	722	113	609	Less than five percent			Less than five percent		
2. ELDERLY AND HANDICAPPED	252	20	232						
3. NON-ELDERLY/HANDICAPPED	470	93	377						
B. DISPLACED OR TO BE DISPLACED									
1. TOTAL	0	0	0						
2. ELDERLY AND HANDICAPPED	0	0	0						
3. NON-ELDERLY/HANDICAPPED	0	0	0						
C. ADDITIONAL HOUSEHOLDS EXPECTED TO RESIDE IN LOCALITY									
1. TOTAL	41	6	35						
2. ELDERLY AND HANDICAPPED	14	1	13						
3. NON-ELDERLY/HANDICAPPED	27	5	22						

D. DATA SOURCES AND METHODS

Source: A. 1, A. 2, A. 3: HUD, EMAD Section. The number of elderly requiring assistance may be somewhat overstated, as 162 Public Housing Units for the elderly were occupied in Livonia between March 1970 and March 1972.

C.1: It is anticipated that there will be approximately 1,700 additional households in Livonia within the next three years, as the number of occupied households in the City increased by 1,714 from April 1, 1970 to July 1, 1973 (From SEMCOG).

The number of families requiring assistance was estimated by computing the proportion of families who required assistance in 1970, and applying these ratios to the expected number of additional households during the next three years.

* Required only if group represents 5 percent or more of population or four or more persons

HUD-7015.9 (11-71)

EXHIBIT II

ANNUAL GOAL FOR HOUSING ASSISTANCE
SUBMITTED BY LIVONIA IN ITS HOUSING AND COMMUNITY DEVELOPMENT APPLICATION

Form Approved
OMB No. [illegible]

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
HOUSING ASSISTANCE PLAN

TABLE III - ANNUAL GOAL FOR HOUSING ASSISTANCE

1. NAME OF APPLICANT	2. APPLICATION NUMBER	3. ☒ ORIGINAL ☐ AMENDMENT
City of Livonia, Michigan	4. PROGRAM YEAR: From [illegible] To:	

A. CATEGORY	NUMBER OF UNITS (Enter in whole numbers)							
	FIRST YEAR GOAL				THIRD YEAR GOAL*			
	TOTAL	TYPES OF UNITS			TOTAL	TYPES OF UNITS		
		New	Exist.	Rehab.		New	Exist.	Rehab.
1. TOTAL	56	150		56				
2. ELDERLY	18	150		18				
3. NON-ELDERLY LARGE	29			29				
4. OTHER	9			9				
B. SOURCES OF ASSISTANCE								
1. HUD								
a. SECTION 8** ***		150						
AMOUNT	$	$	$	$	$	$	$	$
b. CD BLOCK GRANTS	26			26				
c. OTHER								
2. STATE AGENCIES IDENTIFY PROGRAMS a.								
b.								
c.								
3. OTHER a. FARMERS HOME AD.								
b. LOCAL PROGRAMS								
c. OTHER (Specify)	30			30				

C. EXPLANATION OF PRIORITIES

Note: Livonia objects to the State waiver. The City reserves the right to review any MSHDA plan for Livonia.

***At the present time, the City Council of Livonia is considering a proposal by a developer to construct about 150 units of housing with some of the occupants being assisted under the Section 8 Rent Subsidy Program. During August 1973 and August 1974, 614 houses in the City were sold within a price range of $15,000-$30,000 and 59 homes in that price range were for sale in August 1974. The City plans to rehabilitate 26 houses through a grant and/or loan program in the first year. Additional structures will also be rehabilitated in the second or third program year, but the number has not yet been determined. Also, it is anticipated that property owners will rehabilitate 30 structures per year without assistance as part of the Code Enforcement Program.

* Optional
** Explain any State agency amounts included

HUD 7015.10
(11-74)

households.[18] Data from the Bureau of the Census and the Equal Employment Opportunity Commission indicate that the employment facilities in Livonia draw approximately 19,472 non-residents into the city's work force who are eligible for housing assistance.[19]

Livonia's application must also spell out funding activities which are appropriate for meeting the needs and objectives identified in the housing plan. The needs identified by Livonia include a total of 763 households of which 35 percent are identified as "elderly" and 65 percent as "non-elderly."

Livonia's housing plans include assistance to 206 households of which 82 percent are "elderly" and 18 percent are "non-elderly." (See Exhibits I and II.)

The application must also comply with the other requirements of the act, including "careful consideration of applicable areawide (housing and development) plans."

These plans would include those of the Wayne County Planning Commission and the Southeast Michigan Council of Governments (SEMCOG).

In its "Comprehensive Planning Process for Wayne County," the Wayne County Planning Commission concludes that:

> *...the full range of dwelling types--from single family (large and small lot) to high density multiple; the full range of family cycles from the*

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18. Coalition for Block Grant Compliance, Review of Applications for Community Development Block Grant Funds Under the 1974 Housing and Community Development Act (March 1975), p. 1.

19. Journey, Table 2.

> *new young family to the senior citizen; the full range of economic levels from low to upper income; and the full spectrum of ethnic groups should have access to a place to live near the employment, recreational, education, and cultural mix of activities which they choose.*

The commission also states as one of its goals a more even distribution of population characteristics throughout the county, "with more balanced blending of ethnic, economic, and cultural segments."[20]

The Southeast Michigan Council of Governments (SEMCOG) is a voluntary association of local governments in southeast Michigan which serves to develop and coordinate long-range, region-wide planning. (Transcript, p. 307)

The association has a development plan similar to that of the Wayne County Planning Commission:

> *Low cost and low rental housing opportunity on an open occupancy basis must be made available throughout the region, so that people at the lower rungs of the economic ladder have a wider choice of location and type of housing.... Suburban development particularly must provide a variety of housing types at a range of cost and rental levels, in order to meet adequately the housing requirements of all of the people of the region.... Housing opportunities for the poor and minority groups are generally limited to certain areas of the central city. All areas of the region need housing in various economic*

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20. Wayne County Planning Commission, Comprehensive Planning Process for Wayne County (1974), pp. 12, 47.

> *ranges, open to all families. The opportunity to locate residentially outside the central city is of increasing importance as more and more jobs become available in suburban areas due to the spread of economic enterprises....*[21]

To comply with the Housing and Community Development Act requirements, Detroit-area applications would have to reflect consideration of the development plans of both SEMCOG and the Wayne County Planning Commission. Such consideration would include economic, age, and racial mix both within the city itself and within the county and region as a whole. Clustering of racial, age, or income groups would be discouraged either in individual cities or in geographical sections of the region.

The housing and community development plan submitted by Livonia seeks to use housing and community development funds to assist 150 elderly housholds in rent payments and another 18 elderly households in rehabilitation efforts. (See Exhibit II) The application states that the city is considering the construction of about 150 units of new elderly housing on one of seven prospective sites within the city. No additional units of low or moderate income housing are being considered for non-elderly families or for large families.

Livonia's decision to provide principally for the housing needs of the elderly has been repeated in other suburban Detroit communities as well. A survey of 26 applications from the Detroit suburbs conducted by the Coalition for Block Grant Compliance, a federation of 10 civil rights, religious, and civic groups, found that all 26 communities intended to use their funds primarily for housing

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21. Southeast Michigan Council of Governments, Goals for the Region (Adopted by the General Assembly of SEMCOG, Mar. 1, 1974).

assistance to the elderly. Detroit, on the other hand, applied for funds to be used principally for non-elderly and large family housing assistance. This trend, according to the coalition, indicates that housing and community development funds will have the exact opposite effect in the Detroit metropolitan area than the one intended by law: low and moderate income, non-elderly families will continue to be clustered in the inner city of Detroit, while suburban communities will remain devoid of housing opportunities for low and moderate income non-elderly families.[22]

Conclusions:

1) The city of Livonia has made a good-faith effort to identify the housing needs of its residents, both the "elderly" and the "non-elderly."

2) Livonia's assessment of the housing needs of persons "expected to reside" is inconsistent with publicly available information. City officials, including the city attorney and the city planner, indicated that they did not understand the meaning of the "expected to reside" category and that they did not intend to consider the needs of persons "expected to reside" until the needs of existing residents had been met. (Transcript, pp. 128-131) The city did not use publicly available census data, including Journey to Work statistics, in determining its "expected to reside" population. This data indicates that more than 19,000 workers potentially qualify as persons "planning or expected to reside" in Livonia. However, the city did not attempt to determine whether those individuals were candidates for assistance, inquire as to their housing needs, or provide housing assistance where definite needs were found.

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22. Joe Guggenheim, coordinator, Coalition for Block Grant Compliance, telephone interview, May 9, 1975.

3) Livonia's housing goals are inconsistent with their assessment of housing needs. Although the city concluded that "elderly" persons made up 35 percent of the total housing needs, it planned to use 82 percent of the first year housing assistance for the elderly. While the city found that "non-elderly" and "large family households" made up 65 percent of the city's housing needs, it planned to use only 18 percent of the first year assistance for those needs.

4) The Livonia housing plan does not comply with the Housing and Community Development Act requirement to give "careful consideration to applicable areawide plans." Both the Wayne County Planning Commission and SEMCOG stipulate the need for economic, age, ethnic, and racial balance in housing opportunities within both individual cities and the entire regional area. The Livonia plan provides only for the elderly, giving very little consideration to expanding the housing opportunities of non-elderly, large families or persons expected to reside in Livonia. Viewed as a part of an areawide trend to fund primarily elderly housing in the suburbs while large family, low income households are funded only in the city of Detroit, the Livonia plan is inconsistent with the intent of the Housing and Community Development Act to increase the housing opportunities of the poor and to promote economic, age, and racial diversity in neighborhoods.

Recommendations:

1) The Michigan Advisory Committee to the U.S. Commission on Civil Rights recommends to the city of Livonia that it submit an amended housing assistance plan under the procedures described in the Housing and Community Development Act rules and regulations, Title 24 §570.305. To insure compliance with the Housing and Community Development Act and to provide housing to all eligible recipients, the amended plan should:

a) include an accurate identification of the "expected to reside" population and an assessment of their housing needs. Such an assessment should include information systematically gathered from a significant sample of the work force through both interviews and questionnaires and current data on the size of the work force gathered through local employers and all available census data;

b) bring the "goals" of the housing assistance plan into conformity with "needs" as assessed through the amended community participation procedure; and

c) bring the housing assistance plan into general compliance with applicable areawide plans. Such compliance would further the ethnic, economic, racial, and age group balance of housing opportunities.

IV. CIVIL RIGHTS COMPLIANCE

Regulations issued pursuant to the Housing and Community Development Act require that prior to funding, an applicant must certify that its housing program "will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352); Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284); section 109 of the Housing and Community Development Act of 1974; section 3 of the Housing and Urban Development Act of 1968; Executive Order 11246; Executive Order 11063, and any HUD regulations issued to implement these authorities."[23] (See Appendix.)

To determine compliance with this portion of the act, each recipient is "required to document the actions undertaken to assure that no person on the ground of race, color, national origin, religion, or sex has been excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any activity funded under this [act]." Each recipient is also "required to document the actions undertaken to further fair housing."[24]

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23. 39 Fed. Reg. 40144 (1974).

24. 39 Fed. Reg. 40149 (1974).

The act further requires affirmative action on the part of recipients to overcome exclusionary or discriminatory housing trends:

> *In administering a program or activity ...regarding which the recipient has previously discriminated against persons on the ground of race, color, national origin, or sex, the recipient must take affirmative action to overcome the effects of prior discrimination. Even in the absence of such prior discrimination, a recipient...should take affirmative action to overcome the effects of conditions which would otherwise result in limiting participation [in activities funded under this act] by persons of a particular race, color, national origin, or sex. Where previous discriminatory practice or usage tends, on the ground of race, color, national origin, or sex, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this [act] applies, the recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purpose of the act.*[25]

Housing and population data for Livonia indicate that the city has few low income residents and few blacks or other minority persons living in the city. According to 1970 census figures, 6.5 percent of the families living in the Detroit metropolitan area had incomes less than the poverty level. Among Livonia residents, 1.7 percent of the families had poverty-incomes.[26]

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25. 39 Fed. Reg. 40147 (1974).

26. U.S., Department of Commerce, Bureau of the Census, 1970 Census of Population, Characteristics of the Population, Vol. 1 Part 24, Michigan, Table 90 (hereafter cited as Population).

A 1970 census study of the housing characteristics of Livonia showed that of the 27,686 occupied units in the city, 2 were occupied by blacks.[27] Additional 1970 census data showed that one out of every three white members of the Livonia work force was housed in the city. Among blacks, only one out of every 500 members of the work force was housed in the city.[28]

Relatively little housing was available in Livonia on a rental basis. In 1970 approximately 25 percent of the housing in Michigan was rental type. In Livonia, however, only 7 percent of the housing was in the rental category while 93 percent was of the "purchased," "owner occupied" variety. Housing values and rents were also higher in Livonia than they were in the State as a whole. The median rent paid in the State in 1970 was $93, and in Livonia the median rent was $164. The median value of a house in the State was $17,000, and in Livonia the median value was more than $27,000. In addition, there was less housing available to prospective buyers or renters in Livonia than in the State as a whole. The vacancy rate for rental housing was 20 percent lower in Livonia than in the State, and the vacancy rate for owner-occupied housing was more than 36 percent lower in Livonia than in the State.[29]

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27. U.S., Department of Commerce, Bureau of the Census, 1970 Census of Housing, General Housing Characteristics, HC(1)-A1, Table 8 (hereafter cited as Housing).

28. Journey, Table 2. 1970 census data for the number of blacks living in Livonia are inconsistent. The population census indicates a total of 41 black individuals; housing data show two units occupied by blacks; and Journey indicates 6 black persons who live and work in the city.

29. Housing, Table 8.

The housing trends in Livonia have been noted by the Department of Housing and Urban Development in the previous denial of Federal funding to that city. In 1972 HUD denied certification of the city's Workable Program (a plan for community improvement required as a prerequisite for HUD funding) because the city failed to show evidence of an "affirmative approach toward providing housing for a wide spectrum of low and moderate income needs...."[30] The denial of certification resulted in the city losing a $1.5 million grant from HUD for storm sewers. In 1974 the Equal Opportunity Division of the Detroit Area Office of HUD recommended that a 701 Comprehensive Planning Assistance Grant to Livonia be denied because "as in the past, there has been no planning for low income housing to accommodate families."[31]

Enforcement of the civil rights provisions of the Housing and Community Development Act is provided through the A-95 Project Notification and Review System,[32] and through the Equal Opportunity Divisior of HUD.

The A-95 review system gives local, State, and regional agencies the opportunity to review and comment on applications for Federal funds prior to the actual time of application. The purpose

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30. William C. Whitbeck, area director, Department of Housing and Urban Development, letter to Edward H. McNamara, Mayor of Livonia, March 1972.

31. Ruth Featherstone, acting area director, Equal Opportunity Division, Department of Housing and Urban Development, letter to Hank Levandowski, area chief, Planning and Relocation, HUD, May 1974.

32. Pub. L. No. 93-383 §194(e) (Aug. 22, 1974).

of the process is to permit those agencies the opportunity to point out potentially adverse or beneficial aspects of a proposed project before funds are made available. Although A-95 review agencies do not have the authority to make a final decision on funding, their comments are included in the application and considered by the Federal funding agency if they cannot be satisfactorily resolved prior to the submission of the application. (Transcript, pp. 308-311)

The Michigan Civil Rights Commission has the responsibility for A-95 civil rights review in Michigan. This provides an opportunity in advance of the actual funding to comment upon the civil rights implications of a given community's application. (Transcript, pp. 331-333)

The Equal Opportunity Division of HUD conducts both a review of applications prior to funding, known as "front end" review, and an ongoing monitoring program to insure continued compliance with the civil rights requirements of the law. The division has indicated that the front end review will be minimal. According to a memorandum from the HUD Assistant Secretary for Equal Opportunity, local HUD officials were to review applications to ascertain if the applicant's housing assistance plan "substantially impairs the achievement of" either the reduction of the isolation of income groups within communities and geographical areas or the promoting of greater choice of housing opportunities for citizens. The same memorandum, however, stated that, "Congress intended to limit the amount of front end review of applications. Consequently, reviewers will for all practical purposes be scanning applications rather than conducting indepth reviews...."[33]

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33. Gloria E.A. Toote, former Assistant Secretary for Equal Opportunity, U.S. Department of Housing and Urban Development, memorandum to all regional administrators, Dec. 19, 1974.

The Equal Opportunity Division of HUD is relying primarily on its "ongoing monitoring" effort to insure compliance with the law. Area and regional HUD officials serving Michigan indicated that during each of the first 3 years of the program approximately two or three compliance reviews could be conducted.[34] (Transcript, pp. 394-396) At least 72 Michigan communities are entitled to receive funds under the act. (Transcript, p. 354)

Conclusions:

1) In its funding application, Livonia did not take "affirmative action to overcome the effects of conditions...limiting participation by persons of a particular race, color, national origin, or sex." The city's application demonstrates no affirmative action to fulfill its "obligation to take reasonable action to remove or overcome the consequences of prior discriminatory usage." Instead, the Livonia plan locks the city into its already "all white" and "middle income" housing characteristics.

2) The policy of the Department of Housing and Urban Development to "scan" Housing and Community Development applications for compliance with civil rights requirements rather than conducting complete and thorough reviews, jeopardizes those provisions of the law requiring affirmative action to overcome prior discriminatory housing characteristics.

3) The number of compliance reviews planned by HUD for the first 3 years of the program will not adequately insure enforcement of civil rights laws.

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34. Lou Watson, Regional Administrator for Equal Opportunity, Department of Housing and Urban Development, interview in Chicago, Ill., Feb. 5, 1975.

Recommendations:

1) The Michigan Advisory Committee to the U.S. Commission on Civil Rights recommends that the Livonia city council amend its application for funding, as provided in section 570.305 of the Federal Code of Regulations, to include an affirmative program to overcome the effects of conditions which have resulted in the limited participation of certain racial and economic segments of the population in the Livonia housing market. Such an affirmative plan might include a more complete analysis of the number and nature of those persons "expected to reside," provision in the housing assistance plan for meeting the needs of those persons "expected to reside," and the creation of the city's own, ongoing civil rights monitoring effort through the expansion of the duties, responsibilities, and capacities of the present Livonia Human Relations Commission.

2) The Michigan Advisory Committee recommends that the Equal Opportunity Division of HUD conduct a more vigorous front end review of applications to insure compliance with those provisions of the law requiring affirmative action to overcome previous discriminatory housing trends, increased diversity of housing opportunities for low income persons, and the reduction of the isolation of low income groups. In the event a housing assistance plan does not comply with these requirements of the law, it should be denied Federal funding.

3) The Michigan Advisory Committee recommends that the Secretary of Housing and Urban Development allocate out of available funds additional amounts for equal opportunity and civil rights compliance reviews during the current fiscal year. The Advisory Committee further recommends that the Secretary request in the ensuing fiscal years additional funds to conduct a broader range of civil rights compliance reviews. The Committee would also urge the Congress to act favorably on such a request.

APPENDIX

Civil Rights Laws Affecting the Housing and Community Development Act of 1974

Civil Rights Act of 1964, Title VI (Pub. L. No. 88-352).

This legislation requires every Federal agency which is empowered to give Federal grants, loans, or contracts, to insure that no person will be denied the benefits of the activity funded thereby on the basis of race, color, or national origin. In order to carry out the requirements of this Title, Federal agencies are to issue rules and regulations, approved by the President. To insure compliance with this mandate, Federal agencies may terminate, refuse to grant, or to continue assistance to any recipient as to whom there has been an express finding on the record, after opportunity for hearing of a failure to comply. Federal benefits distributed directly to individuals (social security, veteran's benefits, etc.)are not affected by Title VI. Federal insurance or guarantees (FHA insured loans, etc.) are also not covered by Title VI.

Civil Rights Act of 1968, Title VIII (Pub. L. No. 90-284).

Title VIII contains the main Federal legislation relating to fair housing. It prohibits discrimination against any person because of race, color, religion, or national origin. The law covers rental or sale of federally-assisted housing and all private housing generally over four units or any housing advertised or sold through the use of real estate agents. Discrimination in the financing of housing and in the provision of brokerage services is also prohibited. Enforcement of the fair housing provisions of Title VIII is provided through a complaint mechanism within the Department of Housing and Urban Development (HUD). Provision is also made for the commencement of a civil action in Federal district court on behalf of an aggrieved party.

Housing and Community Development Act of 1974, Pub. L. No. 93-383, §109.

Section 109 is the nondiscrimination provision of the Act. It provides that the benefits of programs or activities funded under the Act shall not be denied to any person on the basis of race, color, national origin, or sex. The section spells out the procedures HUD is to follow when it is determined that a State or unit of local government is not complying with the nondiscrimination requirements of the Act. These procedures may culminate in the initiation of a civil action by the U.S. Attorney General in Federal Court.

Housing and Urban Development Act of 1968, Pub. L. No. 90-448, §3.

This section requires the Secretary of HUD to assure to the extent feasible that opportunities for training and employment in connection with the planning, construction, rehabilitation, and operation of certain federally assisted housing, be given to lower income persons residing in the area of such housing. HUD regulations include activities funded under the Housing and Community Development Act of 1974 in this requirement. (39 Fed. Reg. 40144 (1974))

Executive Order No. 11246, 3 C.F.R., 1964-1965 Comp., p. 339.

This Executive order originally contained four parts. Part I bars discrimination in Federal employment. Part II outlines duties of the Secretary of Labor and contracting agencies designed to assure that every government contract would provide that the contractor would not discriminate against em-

ployees or applicants because of race, color, religion, or national origin. Part II was amended to add sex as a prohibited basis of discrimination, effective Oct. 13, 1968. Contractors are obligated to take affirmative action to combat discrimination and must advertise and post job openings accordingly. Subcontractors are also bound by the provisions of Executive Order 11246, and compliance reports of contractors must also include information on the nondiscrimination policies of any labor union with which the contractor has a collective bargaining agreement. The Secretary of Labor is empowered to conduct investigations or to work through the contracting agencies or other Federal, State, and local agencies to secure compliance. Hearings may be held for compliance, enforcement, or educational purposes. The sanctions include publication of violators' names, cancellation of contracts, and recommendation for further prosecution under the Civil Rights Act of 1964. Part III of this Executive order describes the nondiscrimination provisions in federally-assisted construction or rehabilitation contracts. Miscellaneous administrative details are spelled out in Part IV.

Executive Order No. 11063, 3 C.F.R., 1959-1963 Comp., p. 652.

Executive Order 11063 was designed to insure equal opportunity in federally-assisted housing. It provides that all Federal departments and agencies take action to prevent discrimination because of race, color, creed, or national origin in the sale, leasing, or rental of property owned or operated by the Federal Government or built with the aid of Federal monies, including loans guaranteed by the Federal Government or property developed or cleared with Federal financial assistance. Implementation of this order is coordinated by the President's Committee on Equal Opportunity in Housing. Enforcement is to be assured through hearings held by the Committee or officers of agencies subject to this order.

Sanctions include cancellation or termination of contracts and agreements or, in the case of a lending institution, refusal to approve that institution as a beneficiary under any other Federal program administered by the agency or to terminate such approval if previously given. Other sections of the order establish the President's Committee on Equal Opportunity in Housing and detail its powers and duties.